

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	79138782
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 104
<b>MARK SECTION</b>	
<b>MARK FILE NAME</b>	http://tmng-al.uspto.gov/resting2/api/img/79138782/large
<b>LITERAL ELEMENT</b>	HAKUBAKU THE KOKUMOTSU COMPANY
<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>COLOR(S) CLAIMED (If applicable)</b>	The color(s) red and yellow is/are claimed as a feature of the mark.
<b>DESCRIPTION OF THE MARK (and Color Location, if applicable)</b>	The mark consists of the red wording "HAKUBAKU" and "THE KOKUMOTSU COMPANY". Above the wording is a floral design of red with yellow emanating from the center of the design.
<b>ARGUMENT(S)</b>	
<p>The Examining Attorney has requested a disclaimer of the term "HAKUBAKU," which the Examining Attorney believes is descriptive of the Applicant's goods. Applicant respectfully submits that a disclaimer is not required as the HAKUBAKU portion of its mark has become distinctive of the goods listed in the application through Applicant's substantially exclusive and continuous use in commerce of HAKUBAKU in connection with the identified goods for at least five years immediately before the date of this statement. Applicant submits a sworn declaration attesting to this fact.</p>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_20447335-20150812154357368829_.HAKUBAKU_Design_2f_Declaration.pdf</a>
<b>CONVERTED PDF FILE(S) (1 page)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\387\79138782\xml19\RFR0002.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Section 2(f) Declaration

ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	The English translation of "HAKUBAKU" in the mark is "WHITE BARLEY" and the English translation of "KOKUMOTSU" in the mark is "GRAIN."
SECTION 2(f) Claim of Acquired Distinctiveness, IN PART, based on Five or More Years' Use	HAKUBAKU has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Amy Salomon/
SIGNATORY'S NAME	Amy Salomon
SIGNATORY'S POSITION	Attorney of Record, Arent Fox LLP (DC Bar member)
SIGNATORY'S PHONE NUMBER	(202) 857-6000
DATE SIGNED	08/12/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Aug 12 15:56:20 EDT 2015
TEAS STAMP	USPTO/RFR-204.4.73.35-201 50812155620739520-7913878 2-54083f9e25ae3bdd0ae80af e0f8aea8981be5c6fd987f76f 71db3c680dbb9f537-N/A-N/A -20150812154357368829

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. **79138782** HAKUBAKU THE KOKUMOTSU COMPANY (Stylized and/or with Design, see <http://tmng-al.uspto.gov/resting2/api/img/79138782/large>) has been amended as follows:

## **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

The Examining Attorney has requested a disclaimer of the term "HAKUBAKU," which the Examining Attorney believes is descriptive of the Applicant's goods. Applicant respectfully submits that a disclaimer is not required as the HAKUBAKU portion of its mark has become distinctive of the goods listed in the application through Applicant's substantially exclusive and continuous use in commerce of HAKUBAKU in connection with the identified goods for at least five years immediately before the date of this statement. Applicant submits a sworn declaration attesting to this fact.

## **EVIDENCE**

Evidence in the nature of Section 2(f) Declaration has been attached.

**Original PDF file:**

[evi\\_20447335-20150812154357368829 . HAKUBAKU Design 2f Declaration.pdf](#)

**Converted PDF file(s)** ( 1 page)

[Evidence-1](#)

## **ADDITIONAL STATEMENTS**

### **Miscellaneous Statement**

The English translation of "HAKUBAKU" in the mark is "WHITE BARLEY" and the English translation of "KOKUMOTSU" in the mark is "GRAIN."

### **SECTION 2(f) Claim of Acquired Distinctiveness, IN PART, based on Five or More Years' Use**

HAKUBAKU has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /Amy Salomon/ Date: 08/12/2015

Signatory's Name: Amy Salomon

Signatory's Position: Attorney of Record, Arent Fox LLP (DC Bar member)

Signatory's Phone Number: (202) 857-6000

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79138782

Internet Transmission Date: Wed Aug 12 15:56:20 EDT 2015

TEAS Stamp: USPTO/RFR-204.4.73.35-201508121556207395

20-79138782-54083f9e25ae3bdd0ae80afe0f8a

ea8981be5c6fd987f76f71db3c680dbb9f537-N/

A-N/A-20150812154357368829

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of Hakubaku Co., Ltd	:	
	:	Examining Attorney
Serial No. 79138782	:	Dominic Fathy
	:	
Filed: March 1, 2013	:	Law Office: 104
	:	
Mark: HAKUBAKU THE KOKUMOTSU	:	
COMPANY & Design	:	

**DECLARATION**

The undersigned declares that she is authorized to execute this declaration and that the facts set forth in this declaration are true. The HAKUBAKU portion of the above referenced mark has acquired distinctiveness under Section 2(f) of the Trademark Act, 15 U.S.C. Section 1052(f), as a result of the following:

The HAKUBAKU portion of the mark has become distinctive of the goods through Applicant's substantially exclusive and continuous use in commerce of HAKUBAKU in connection with the identified goods for at least five years immediately before the date of this statement.

The undersigned further declares that all statements made of her own knowledge are true; that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful false statements may jeopardize the validity of this application or any registration resulting therefrom.

Hakubaku Co., Ltd

Dated: August 12, 2015

By /Amy Salomon/  
Amy Salomon  
Arent Fox LLP  
1717 K Street, NW  
Washington, DC 20006-5344  
(202) 857-6000  
*Attorney of Record*